

REMARKS

In the Office Action dated October 5, 2004, claims 1-21 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Application No. US 2004/0169767 A1 ("Norita et al."). In response, Applicant has amended the dependent claims 8 and 19 to more clearly distinguish the claimed invention from the cited reference. In addition, Applicant has canceled claims 9 and 17, and has added new dependent claims 22 and 23. Claims 4, 5 and 13 were also amended to correct minor informalities.

Applicant respectfully asserts that the independent claims 1, 10 and 18 are not anticipated by Norita et al., as explained below. Furthermore, Applicant respectfully asserts that the amended dependent claims 8 and 19, and the new dependent claims 22 and 23 are also not anticipated by Norita et al., as explained below. In view of the amendments to the claims and the following remarks, Applicant respectfully requests the allowance of the pending claims 1-8, 10-16 and 18-23.

A. Patentability of Independent Claims 1, 10 and 18

The Office Action has rejected the independent claims 1, 10 and 18 under 35 U.S.C. §102(e) as allegedly being anticipated by Norita et al. The independent claims 1 and 10 recite in part "*adjusting current settings of the image-capturing parameters of the image-capturing device to conform with one of the first and second images selected by a user.*" Similarly, the independent claim 10 recites in part a parameter adjuster "*configured to adjust current settings of the image-capturing parameters of the image-capturing device to conform to one of the first settings and the second settings in response to a user selection between the first captured image and the second captured image presented on the display device.*"

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053

(Fed. Cir. 1987); MPEP §2131. With respect to claim 1, the Office Action alleges Norita et al. discloses that "the current settings of the image capturing parameters (exposure settings) are adjusted for each image that is written to the buffer memory (82)" and that "the settings conform with the image selected by the user." In support of these allegations, the Office Action states that "[i]f the user presses the release button (30), the process goes on to step 45 and the exposure is not further changed (page 6, paragraphs 120-121)" and "[t]herefore, the current settings of the image capturing parameters (exposure settings) remain the same when an image is selected by a user." Even assuming that these allegations are correct, Applicant respectfully asserts that Norita et al. does not disclose the element of "*adjusting current settings of the image-capturing parameters of the image-capturing device to conform with one of the first and second images selected by a user,*" as recited in the independent claim 1.

The operation of manual exposure photography disclosed in Norita et al. involves repeatedly capturing images corresponding to a plurality of predetermined exposure times, and sequentially displaying images with increased exposure by a predetermined time interval with a lapse of time until user presses the release button 30 when an image with desired exposure is displayed. See paragraphs [0119] and [0120] of Norita et al. The Office Action assumes that capturing a plurality of images at different exposure times means capturing images using different settings (exposure settings) of image-capturing parameters. Applicant respectfully disagrees with this assumption since the images captured at different exposure times, as described in Norita et al., are the result of particular settings of the digital camera. That is, each image is captured using the same particular settings of the digital camera, which are the manual exposure settings. Fig. 16 of Norita et al. illustrates an example of manual exposure settings. Changes in exposure times cannot be equated with changes in exposure settings. In Norita et al., exposure settings are defined before images are captured at different exposure times, and remain unchanged when the image are captured at different exposure times. Thus, the exposure settings are not changed in the manner alleged in the Office Action.

Even assuming arguendo that different exposure times can somehow be interpreted as different exposure settings, Norita et al. does not disclose the element of "*adjusting current settings of the image-capturing parameters of the image-capturing device to conform with one of the first and second images selected by a user,*" as recited in the independent claim 1. In the manual exposure photography operation of Norita et al., when an image is selected by a user, the exposure time is not adjusted. This is admitted in the Office Action, which states that "[t]herefore, the current settings of the image capturing parameters (exposure settings) remain the same when an image is selected by a user." Since the exposure time is not adjusted when an image is selected by a user, Norita et al. does not disclose the element of "*adjusting current settings of the image-capturing parameters of the image-capturing device to conform with one of the first and second images selected by a user,*" as recited in the independent claim 1. As such, Applicant respectfully asserts that the independent claim 1 is not anticipated by Norita et al., and thus, should be allowed.

The above remarks are also applicable to the independent claims 10 and 18, which include similar limitations. As such, Applicant respectfully asserts that the independent claims 10 and 18 are also not anticipated by Norita et al., and thus, should be allowed.

B. Patentability of Amended Dependent Claim 8

The original dependent claim 8 was rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Norita et al. In response, Applicant has amended claim 8 to more clearly distinguish the claimed invention from the cited reference.

The amended dependent claim 8 recites "*a step of capturing a third image using the current settings of the image-capturing parameters as the settings to produce the third image.*" Norita et al. discloses capturing images at different exposure times. Thus, even assuming that exposures times can be interpreted as exposure settings, each image is captured at a different exposure time, as disclosed in Norita et al. Therefore, Norita et al. cannot disclose "*a step of capturing a third*

image using the current settings of the image-capturing parameters as the settings to produce the third image." As such, Applicant respectfully asserts that the amended dependent claim 8 is not anticipated by Norita et al., and thus, should be allowed.

C. Patentability of Amended Dependent Claim 19

The original dependent claim 19 was rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Norita et al. In response, Applicant has amended claim 19 to more clearly distinguish the claimed invention from the cited reference.

The amended dependent claim 19 recites "*wherein the image-capturing parameters include at least two parameters selected from a group consisting of color saturation, contrast, brightness, hue, gamma correction and white balance.*" The manual exposure photography operation of Norita et al. only involves exposure times. Thus, Norita et al. does not disclose image-capturing parameters of color saturation, contrast, hue, gamma correction and white balance. As such, Applicant respectfully asserts that the amended dependent claim 19 is not anticipated by Norita et al., and thus, should be allowed.

D. Patentability of New Dependent Claims 22 and 23

The new dependent claims 22 and 23 both recite "*wherein the image-capturing parameters include at least two parameters selected from a group consisting of exposure period, aperture, color saturation, contrast, hue, gamma correction and white balance.*" As stated above, the manual exposure photography operation of Norita et al. only involves exposure times. Thus, Norita et al. does not disclose image-capturing parameters of aperture, color saturation, contrast, hue, gamma correction and white balance. As such, Applicant respectfully asserts that the new dependent claim 22 and 23 are not anticipated by Norita et al., and thus, should be allowed.

F. Patentability of Dependent Claims 2-7, 11-16 and 20-21

Each of the dependent claims 2-7, 11-16 and 20-21 depends on one of the independent claims 1, 10 and 18. As such, these dependent claims include all the limitations of their respective base claims. Therefore, Applicant submits that these dependent claims are allowable for at least the same reasons as their respective base claims.

Applicant respectfully requests reconsideration of the claims in view of the claim amendments and the remarks made herein. A notice of allowance is earnestly solicited.

Respectfully submitted,
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